

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA 01/02-1003
)	
)	
J&B Refining DBA)	CONSENT ORDER
J&B Enterprises)	
342 Laurelwood Avenue)	Health and Safety Code
Santa Clara, California 95050)	Section 25187
)	
CAD069138899)	
)	
Respondent.)	
_____)	

The State Department of Toxic Substances Control (Department) and J&B Refining dba J&B Enterprises enter into this Consent Order and agree as follows:

1. Respondent generates, handles, treats, and stores hazardous waste at 342 Laurelwood Avenue, Santa Clara, California, 95050 (Site).
2. The Department inspected the Site on August 8, 2000.
3. The Department alleges the following violation:
The Respondent violated Health and Safety Code section 25189.2(b) in that on or about August 8, 2000, Respondent operated an unpermitted concentrator unit (C-2) to remove moisture from the on-site generated cyanide stripping solution/rinses and lean_liquor prior to processing into the metal precipitation/treatment tanks.

4. The Respondent alleges they received a letter from the Department dated May 17, 2000, which they misinterpreted as allowing them to operate the C-2 unit without a permit from the Department. The violation did not involve any illegal disposal of hazardous waste.

5. A dispute exists regarding the alleged violations.

6. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

7. Jurisdiction exists pursuant to Health and Safety Code section 25187.

8. Respondent waives any right to a hearing in this matter.

9. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

10. The violation has been corrected.

PAYMENTS

11. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$5,250.00, of which \$2015.52 is a penalty and \$3234.48 is reimbursement of the Department's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To:

Charlene Williams, Chief
Northern California Branch
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to HSC § 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees,

contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: November 8, 2001

Original signed by
Ken Epsmay - Owner

Signature of Respondent's
Representative

Dated: Novmeber 8, 2001

Original signed by
Ken Epsmay

Typed or Printed Name and Title
of Respondent's Representative

Dated: November 9, 2001

Original signed by
Charlene Williams

Charlene Williams, Chief
Northern California Branch
Statewide Compliance Division
Department of Toxic Substances
Control